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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 03-0248 DAE
)	
Plaintiff,)	GOVERNMENT'S MEMORANDUM IN
)	OPPOSITION TO THE DEFENDANT'S
vs.)	MOTION TO WITHDRAW COUNSEL;
)	CERTIFICATE OF SERVICE
SAMUEL M. KAAUWAI, III,)	
)	Date: Dec. 1, 2006
Defendant.)	Time: 10:30 a.m.
)	Judge: Hon. Barry M. Kurren

GOVERNMENT'S MEMORANDUM IN OPPOSITION TO THE
DEFENDANT'S MOTION TO WITHDRAW COUNSEL

On November 17, 2006, the defendant filed a motion to allow his present counsel, Clayton Kimoto, to withdraw due to an alleged conflict of interest. The alleged conflict of interest, however, is merely the fact that Mr. Kimoto and the defendant's earlier counsel, William Domingo, are close personal friends and former colleagues. Mr. Kimoto apparently does not want to be placed in a position where he may have to cross-examine Mr. Domingo.

This desire, as commendable as it may be, is not a conflict of interest. Mr. Kimoto's only loyalty is to his client and not to Mr. Domingo. Mr. Domingo is a very experienced criminal defense attorney with a "thick skin" who surely will not take any comments made or questions asked by Mr. Kimoto personally. After all, despite the alleged friendship, Mr. Kimoto already has filed a document (i.e., the motion to allow the defendant to withdraw his guilty plea) which alleges that Mr. Domingo intimidated and coerced the defendant into pleading guilty. Any conflict (and we submit there is none) was waived once Mr. Kimoto filed the motion to allow the defendant to withdraw his guilty plea which attacked Mr. Domingo's integrity.

Finally, we would like to emphasize that Mr. Kimoto is the defendant's *fourth* attorney (i.e., William Domingo, Alexander Silvert, and Glenn Choy). The government opposed Mr. Choy's motion to withdraw and that objection was overruled by the court. At that time, on September 21, 2006, the Court informed the defendant that it would not grant any further changes in counsel. Mr. Kimoto has not raised any issues that should require the Court to back off of that position.

DATED: November 27, 2006, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By /s/ Marshall H. Silverberg
MARSHALL H. SILVERBERG
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served Electronically through CM/ECF

CLAYTON K. KIMOTO, ESQ.
Attorney for Defendant SAMUEL KAAUWAI

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DATED: November 27, 2006, at Honolulu, Hawaii.

/s/ Cheri Abing